

United States District Court

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

for the

Aug 21, 2014

SEAN F. McAVOY, CLERK

Eastern District of Washington

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Jaime Barajas-Birrueta Case Number: 0980 2:13CR02094-TOR-3

Name of Sentencing Judicial Officer: The Honorable Thomas O. Rice

Date of Original Sentence: April 15, 2014

Type of Supervision: Supervised Release

Original Offense: Misprision of a Felony,
18 U.S.C. § 4

Date Supervision Commenced: August 8, 2014

Original Sentence: Prison - 60 Days; TSR - 12 Months Date Supervision Expires: August 7, 2015

PETITIONING THE COURT

To modify the conditions of supervision as follows:

- 15 You shall undergo a substance abuse evaluation and, if indicated by a licensed/certified treatment provider, enter into and successfully complete an approved substance abuse treatment program, which could include inpatient treatment and aftercare. You shall contribute to the cost of treatment according to your ability to pay. You shall allow full reciprocal disclosure between the supervising officer and treatment provider.
- 16 You shall abstain from the use of illegal controlled substances, and shall submit to testing (which may include urinalysis or sweat patch), as directed by the supervising officer, but no more than six tests per month, in order to confirm continued abstinence from these substances.
- 17 You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising officer, but no more than six tests per month, in order to confirm continued abstinence from this substance.
- 18 You shall not enter into or remain in any establishment where alcohol is the primary item of sale.

CAUSE

On August 8, 2014, Mr. Barajas-Birrueta was released from custody after serving his 60-day sentence for Misprision of a Felony, in violation of 18 U.S.C. § 4.

On August 11, 2014, Mr. Barajas-Birrueta reported to the U.S. Probation Office for intake and a review of conditions of supervision. As per the general condition that requires him to refrain from any unlawful use of a controlled substance, the defendant was directed to submit to urinalysis testing. The specimen collected returned presumptive

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positive for cocaine using the MP Rapid test device. Mr. Barajas-Birrueta was given the opportunity to address any chemical dependency issue he may have, instead, he adamantly denied illegal drug use. The defendant questioned whether the medication he was taking could return as a positive test for cocaine.

On August 18, 2014, this officer received test results from Alere Toxicology Services confirming the presence of cocaine in the specimen collected on August 11, 2014, from the defendant. It was not until Mr. Barajas-Birrueta was confronted regarding the positive test results for cocaine, that he admitted to the use of the illegal substance. The defendant reported he went to a local bar in Granger, Washington, the day before reporting to the probation office. Mr. Barajas-Birrueta stated while at the bar, he consumed a couple of beers, and met a couple of individuals in the establishment's restroom who offered him the drug.

Per the presentence report, Mr. Barajas-Birrueta reported not consuming any alcohol due to the medications he is taking. Based on his disclosure of going to a bar, consuming alcohol, and using illegal drugs is a great concern. Although Mr. Barajas-Birrueta initially denied the use of cocaine, he agreed to abstain from drugs and alcohol use, in addition to obtaining a drug and alcohol evaluation. The defendant stated that if directed, he will participate in recommended treatment.

This officer has reviewed the attached waiver and hearing to modify conditions of supervised release with Mr. Barajas-Birrueta, to which he acknowledged this understanding with his signature. The requested modification will require the defendant to abstain from drugs and alcohol use, in addition allow him to address his chemical dependency issue.

Respectfully submitted,

by s/Jose Zepeda

Jose Zepeda
U.S. Probation Officer
Date: August 20, 2014

THE COURT ORDERS

- No Action
- The Extension of Supervision as Noted Above
- The Modification of Conditions as Noted Above
- Other



Signature of Judicial Officer

August 21, 2014

Date

United States District Court

Eastern District of Washington

Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

To modify the conditions of supervision as follows:

- 15 You shall undergo a substance abuse evaluation and, if indicated by a licensed/certified treatment provider, enter into and successfully complete an approved substance abuse treatment program, which could include inpatient treatment and aftercare. You shall contribute to the cost of treatment according to your ability to pay. You shall allow full reciprocal disclosure between the supervising officer and treatment provider.
- 16 You shall abstain from the use of illegal controlled substances, and shall submit to testing (which may include urinalysis or sweat patch), as directed by the supervising officer, but no more than six tests per month, in order to confirm continued abstinence from these substances.
- 17 You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising officer, but no more than six tests per month, in order to confirm continued abstinence from this substance.
- 18 You shall not enter into or remain in any establishment where alcohol is the primary item of sale.

Witness:



Jose Zepeda
U.S. Probation Officer

Signed: 

Jaime Barajas-Birrueta
Probationer or Supervised Releasee

8-19-14

Date